

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 17 2010

JAMES R. LARSEN, CLERK
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1 WILLIAM R. TAMAYO, REGIONAL ATTORNEY
2 DEBRA SMITH, TRIAL ATTORNEY
3 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
4 SAN FRANCISCO DISTRICT OFFICE
5 350 THE EMBARCADERO, SUITE 500
6 SAN FRANCISCO, CALIFORNIA 94105-1260
7 TEL: (415) 625-5650
8 Debra.Smith@eeoc.gov

9 JOHN STANLEY, SUPERVISORY TRIAL ATTORNEY
10 CARMEN FLORES, SENIOR TRIAL ATTORNEY
11 MAY CHE, TRIAL ATTORNEY
12 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
13 909 FIRST AVENUE, SUITE 400
14 SEATTLE, WA 98104
15 TEL: (206) 220-6853
16 Carmen.Flores@eeoc.gov

17 ATTORNEYS FOR PLAINTIFF

18
19 IN THE UNITED STATES DISTRICT COURT
20 FOR THE EASTERN DISTRICT OF WASHINGTON

21 EQUAL EMPLOYMENT
22 OPPORTUNITY COMMISSION

23 Plaintiff,

24 v.

25 EVANS FRUIT CO., INC.

Defendant.

CIVIL ACTION NO. **CV-10-3033-LRS**

(REDACTED)

COMPLAINT

JURY TRIAL DEMAND

(REDACTED) COMPLAINT- Page 1 of 10

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle Field Office
909 First Avenue, Suite 400
Seattle, Washington 98104-1061
Telephone: (206) 220-6883
Facsimile: (206) 220-6911
TDD: (206) 220-6882

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Charging Parties ("CPs") Jane Doe 1, Jane Doe 2, Jane Doe 3, Class Members ("CMs") Jane Doe 1, Jane Doe 2, Jane Doe 3 and Jane Doe 4, and other similarly situated individuals who were adversely affected by such practices. The Equal Employment Opportunity Commission alleges that defendant, Evans Fruit Co., Inc. ("Evans Fruit"), subjected CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3 and a class of similarly situated female employees to a hostile work environment because of sex. As a result of this discrimination, CP Jane Doe 1 and CP Jane Doe 2 were constructively discharged. Plaintiff seeks monetary and injunctive relief, including pecuniary and nonpecuniary compensatory and punitive damages on behalf of CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3 and CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3 CM Jane Doe 4 and other similarly situated individuals.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to

1 sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended,
2 42 U.S.C. sections 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil
3 Rights Act of 1991, 42 U.S.C. §1981a.

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5 2. The employment practices alleged to be unlawful were committed
6 within the jurisdiction of the United States District Court for the Eastern District of
7 Washington.

8
9 PARTIES

10 3. Plaintiff, the Equal Employment Opportunity Commission (the
11 "Commission"), is the agency of the United States of America charged with the
12 administration, interpretation and enforcement of Title VII, and is expressly
13 authorized to bring this action by Section 706(f)(1) of Title VII, 42 U.S.C. §2000e-
14 5(f)(1).
15

16
17 4. At all relevant times, defendant Evans Fruit has been a corporation
18 continuously doing business in the State of Washington and has continuously had
19 at least 15 employees.
20

21 5. At all relevant times, defendant Evans Fruit has continuously been an
22 employer engaged in an industry affecting commerce within the meaning of
23 Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e-(b), (g) and (h).
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25

STATEMENT OF CLAIMS

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2 6. More than thirty days prior to the institution of this lawsuit, CP Jane
3 Doe 1, CP Jane Doe 2 , and CP Jane Doe 3 filed charges with the Commission
4 alleging violations of Title VII by defendant Evans Fruit. The Commission issued
5 a Letter of Determination for the charges and conciliation failed. All conditions
6 precedent to the institution of this lawsuit have been fulfilled.
7

8
9 7. From at least June 26, 2006 through the present, defendant Evans
10 Fruit has engaged in unlawful employment practices at its facilities in Sunnyside,
11 Washington in violation of §§ 703(a) of Title VII, 42 U.S.C. §§ 2000e-2(a). The
12 practices include subjecting CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3, CM
13 Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3, CM Jane Doe 4 and similarly
14 situated female employees to a hostile work environment because of sex; resulting
15 in the constructive discharge of CP Jane Doe 1 and CP Jane Doe 2.
16
17

18 8. The practices complained of in paragraph 7 by CP Jane Doe 1, CP
19 Jane Doe 2, CP Jane Doe 3, CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3, CM
20 Jane Doe 4 and other similarly situated female employees were carried out by Juan
21 Marin ("Marin"), the Farm Manager at defendant Evans Fruit, and Marcelo (last
22 name unknown), a supervisor at defendant Evans Fruit. Marin hired and was the
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24
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1 direct supervisor of the CPs and CMs. CP Jane Doe 1 is the mother of CP Jane
2 Doe 2.

3 9. The practices complained of in paragraphs 7 and 8 by CP Jane Doe 1,
4 CP Jane Doe 2, CP Jane Doe 3, CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3,
5 CM Jane Doe 4 and similarly situated female employees include, but are not
6 limited to, the following: Marin told CP Jane Doe 1 that she had a very pretty
7 daughter (then aged 16) and that she should give CP Jane Doe 2 to him for sex;
8 Marin frequently told CP Jane Doe 2 that he wanted her sexually, pressed up
9 against her body, and touched her breasts; when CP Jane Doe 1 complained and
10 told Marin to cease the sexual harassment that she observed of her daughter, Marin
11 laughed and told CP Jane Doe 1 that he would take care of her daughter and that
12 she should give her to him; and Marin frequently told CP Jane Doe 3 that she
13 looked attractive, like a "quincenera" (fifteen year-old), and would hold her hand,
14 squeezing it tight while telling her he wanted her, and offered her free rent or a
15 vehicle if she slept with him. Despite CP Jane Doe 1 repeatedly rejecting Marin's
16 propositions for sex with CP Jane Doe 1's teenage daughter, Marin continued the
17 harassment. Fearing that Marin would sexually abuse the underage girl, CP Jane
18 Doe 1 and CP Jane Doe 2 were forced to constructively discharge.

10. The practices complained of in paragraphs 7 and 8 by similarly situated CMs include, but are not limited to, the following: Marin also grabbed, hugged, and told other CMs that he wanted them sexually. Marin told CM Jane Doe 1 on a constant basis that he wanted her sexually and would forcibly hug her. Marin told CM Jane Doe 1 that he would support her financially in exchange for a sexual relationship. When CM Jane Doe 1 became romantically involved with another man and later became pregnant, Marin got extremely angry and began telling CM Jane Doe 1's co-workers that the baby was his. Marin propositioned CM Jane Doe 2 for sexual relations on several occasions and offered her money in exchange for having sex with him. On one occasion, Marin reached up and grabbed CM Jane Doe 2's buttocks when she was on a ladder picking apples. When CM Jane Doe 2 became pregnant and gave birth to a son, Marin offered to buy her son on three occasions. Marin offered CM Jane Doe 2 \$10,000 on the first two occasions and \$12,000 on the third occasion. Marin propositioned CM Jane Doe 3 on numerous occasions during her employment. On one occasion Marin told CM Jane Doe 3 he wanted to go to her house and see her in a mini skirt. Marin would tell CM Jane Doe 3 that he wanted to have children with her, explaining that he already had six women and 18 children. He wanted CM Jane Doe 3 to be his seventh woman.

11. The practices complained of in paragraphs 7 and 8 by the CMs include, but are not limited to, the following: CM Jane Doe 4 was propositioned for sex on several occasions by her supervisor, crew leader, Marcelo (last name unknown). Because Marcelo was a supervisor he was able to access her cell phone number from her employee record. Marcelo then began to stalk CM Jane Doe 4 by calling her repeatedly. When CM Jane Doe 4 rejected Marcelo's sexual advances, he cut her work hours. CM Jane Doe 4 complained to Marin about Marcelo's sexually threatening behavior and cut in hours. Marin failed to take any corrective measures to stop Marcelo's discriminatory actions.

12. Defendant Evans Fruit did not provide CPs, CMs and other similarly situated individuals with training or policies about sexual harassment and how to report it.

13. The effect of the practices complained of in paragraphs 7 -12 above has been to deprive CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3, CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3 and CM Jane Doe 4, and other similarly situated individuals of equal employment opportunities.

14. The unlawful employment practices complained of in paragraphs 7-12 above were intentional.

15. The unlawful employment practices complained of in paragraphs 7-12 above were done with malice or with reckless indifference to the federally protected rights of the CPs, CMs and other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate.

B. Order defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order defendant to make whole CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3, CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3 and CM Jane Doe 4, and other similarly situated individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-12 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.

D. Order defendant to make whole CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3, CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3 and CM Jane Doe 4,

1 and other similarly situated individuals by providing compensation for past and
2 future nonpecuniary losses resulting from the unlawful practices complained of in
3 paragraphs 7-12 above, including without limitation emotional pain, suffering, and
4 loss of enjoyment of life, in amounts to be determined at trial.
5

6 E. Order defendant to pay CP Jane Doe 1, CP Jane Doe 2, CP Jane Doe 3
7 CM Jane Doe 1, CM Jane Doe 2, CM Jane Doe 3 and CM Jane Doe 4, and other
8 similarly situated individuals punitive damages for its malicious and reckless
9 conduct described in paragraphs 7-12 above, in amounts to be determined at trial.
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11 G. Grant such further relief as the Court deems necessary and proper in
12 the public interest.
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14 H. Award the Commission its costs of this action.
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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 7th day of June, 2010.

WILLIAM R. TAMAYO
Regional Attorney

P. DAVID LOPEZ
General Counsel

JOHN STANLEY
Supervisory Trial Attorney

JAMES L. LEE
Deputy General Counsel

CARMEN FLORES
Senior Trial Attorney

GWENDOLYN Y. REAMS
Associate General Counsel

DEBRA SMITH
Trial Attorney

MAY CHE
Trial Attorney

BY: 
EQUAL EMPLOYMENT OPPORTUNITY
COMMICMON

Seattle District Office
909 First Avenue, Suite 400
Seattle, Washington 98104
Telephone (206) 220-6853

Office of the General Counsel
131 M Street NE, 5th Floor
Washington, D.C. 20507

Attorneys for Plaintiff